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**September 15, 2006**

**From: James M. Stipek**  
**Direct Telephone No.: 816-360-4191**  
**Facsimile No.: 816-753-1536**

**Attorney Docket No. 106121**

To	Company	Fax Number	Examiner's Telephone No.
Director of the USPTO P.O. Box 1450 Alexandria, VA 22313-1450	U.S. Patent and Trademark Office	571-273-8300	571-272-3890

Number of Pages Transmitted (including this cover sheet): 17

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**Message:**

Applicant(s)	Charles A. Jennings	Examiner	Stephan F. Willett
Serial No.	10/051,406	Art Unit No.	2142
Filed	January 18, 2002	Conf. No.	9625
For	System and Method for Routing Media		

Enclosed for submission, please find the following: Facsimile Cover Sheet (1 page); Certificate of Facsimile Transmission (1 page); Transmittal Form (1 page); Response to Examiner-Initiated Interview Summary (14 pages); and authorization to charge additional fees that may be required, or credit any overpayment, to Deposit Account No. 50-1662. Please return a confirmation of the same to the above referenced facsimile number.


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SEP 15 2006

<b>CERTIFICATE OF FACSIMILE TRANSMISSION 37 CFR § 1.8</b>			<b>Matter No.</b>
Applicant(s): Charles A. Jennings			106121
<b>Application No.</b>	<b>Filing Date</b>	<b>Examiner</b>	<b>Art Unit No.</b>
10/051,406	January 18, 2002	Stephan F. Willett	2142
<b>Invention:</b> System and Method for Routing Media			
<p>I hereby certify that the following: Facsimile Cover Sheet (1 page); Transmittal Form (1 page); Response to Examiner-Initiated Interview Summary (14 pages); and authorization to charge additional fees that may be required, or credit any overpayment, to Deposit Account No. 50-1662 are being sent via facsimile transmission to Mail Stop Amendment, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313, at facsimile number 571-273-8300 on this 15th day of September, 2006.</p>			
<div style="text-align: right;">_____ Gayle Canfield Name of Transmitter</div>			
<div style="text-align: right;"> _____ Signature of Transmitter</div>			
<div style="text-align: right;">_____ (571) 273-8300 Facsimile No.</div>			

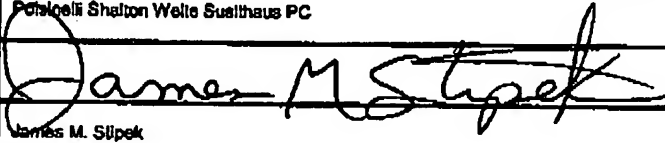
SEP 15 2006

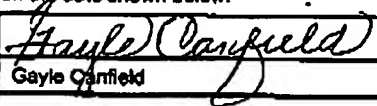
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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/051,406	
	Filing Date	January 18, 2002	
	First Named Inventor	Charles A. Jennings	
	Art Unit	2142	
	Examiner Name	Stephan F. Willett	
Total Number of Pages in This Submission	16	Attorney Docket Number	106121

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) ____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Certificate of Facsimile Transmission; Response to Examiner-Initiated Interview Summary (14 pages).
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm	Poliselli Shelton Wells Susthaus PC		
Signature			
Printed Name	James M. Slipek		
Date	September 15, 2006	Reg. No.	39,388

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Signature			
Typed or printed name	Gayle Canfield	Date	September 15, 2006

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SEP 15 2006

PATENT  
Attorney Docket No. 106121**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s)	Jennings	Examiner	Willett, Stephan F.
Serial No.	10/051,406	Group Art No.	2142
Filed	January 18, 2002	Confirmation No.	9625
For	System and Method for Routing Media		

September 15, 2006

Mail Stop Amendment  
Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO EXAMINER-INITIATED INTERVIEW SUMMARY**

In response to the Examiner-Initiated Interview Summary mailed July 10, 2006,  
Applicant makes the following remarks.

**Remarks**

On July 7, 2006, the Examiner issued a Notice of Allowance and Fee(s) Due and a Notice of Allowability. The Notice of Allowability included an Examiner-Initiated Interview Summary, which identified a telephonic interview on June 23, 2006, and an Examiner's Amendment in which the Examiner amended the claims and stated "Authorization for this Examiner's Amendment was given in a telephonic interview with Mr. Stipek on June 23, 2006." The Examiner was not given authorization to enter that amendment.

On July 10, 2006, the Examiner issued an Examiner-Initiated Interview Summary (the "Interview Summary"). In the Interview Summary, the Examiner identified a telephonic interview on June 22, 2006, between Examiner Willett and Applicant's attorney, James M. Stipek. The Interview Summary indicated that claims 1, 110, and 131 were discussed.

In the Interview Summary, Examiner Willett made the following statements.

Continuation of Substance of Interview including description of the general nature of what was discussed: I called the representative to explain some concerns with his 5/23/06 amendment filed and as he indicated I said in the 11/20/05 amendment "newly submitted systems claims would be [and had been] reviewed". He agreed with some of my concerns, but not others. He directed me to page 18 of his amendment filed 11/20/2005. During our interview in early, 2005, I am sure I did not discuss the specifics of how he could file subsequent systems claims, such as by 312 amendment, and I am even more sure I did not suggest an amendment after allowance. I note in the applicant's interview summary he states "if the Examiner agrees with applicants, applicants request a call to Applicants attorney". I did not make such a call to the Applicant's attorney, but he filed corresponding systems claims anyway, thus this is his second written statement recognizing the need to file all claims as early as possible. Based on my past practices, I would have surely called the applicant, as I did in early, 2005 based on his request, to amicably resolve such a minor issue as this. I suggested he file an amendment as he warranted and that he "could say anything he wanted to in his interview summary" since I expected to file an interview summary also. Subsequently, I called you on 6/23/06 and agreed to file an examiner's amendment to amicably resolve this matter and try to make the claims the best possible.

Thus, the Examiner's statement in the Interview Summary included 1) a summary of a portion of a telephonic conversation between the Examiner and Applicant's attorney on June 22, 2006; 2) commentary of the Examiner's belief about what he may or may not have stated in a prior telephone conference in 2005; and 3) a summary of a portion of a telephone conversation between the Examiner and Applicant's attorney on June 23, 2006.

Applicant and Applicant's attorney disagree with and dispute the statements and allegations made by the Examiner in the Notice of Allowance and the Interview Summary. Applicant makes the following remarks regarding the Notice of Allowance and the Interview Summary.

The following are believed to be a recitation of facts by date for the present application.

**Statement of Facts**

The present application was filed on January 18, 2002.

The application was initially examined by Examiner Mehmet B. Geckil. Examiner Geckil also was the examiner assigned to related application serial number 09/838,993, entitled System and Method for Streaming Media. Applicant's attorney spoke with Examiner Geckil regarding the related application, including a restriction requirement issued by Examiner Geckil in the related application. In prior telephone discussions, Examiner Geckil informed Applicant's attorney that he would be retiring.

On January 19, 2005, Examiner Geckil issued a restriction requirement for the present application.

On February 21, 2005, Applicant's attorney filed a response to the restriction requirement. In the response, Applicant traversed the restriction and provisionally elected Group I, Claims 1-22. In the Initial Remarks section on page 2 of the response, Applicant made the following statement: "Should the Examiner maintain the Restriction or any portion of it, Applicant requests that the Examiner notify Applicant so that Applicant may file corresponding claims for the elected group or for Groups I and II prior to the action on the merits. Applicant thanks the Examiner for the notice."

On June 20, 2005, Examiner Stephan F. Willett called Applicant's attorney, identified himself as being the examiner assigned to the application, and identified the restriction requirement and Applicant's response to the restriction requirement.

On June 24, 2005, Applicant's attorney and Examiner Willett had a telephone conference in which they discussed the restriction requirement, Applicant's traverse to the restriction requirement, Applicant's request to prosecute Groups I and II, and Applicant's request to file system claims corresponding to the method claims that will be examined. Applicant's attorney discussed with Examiner Willett the background of the examination and the communications with Examiner Geckil, including that Examiner Geckil previously was assigned to the application and issued the restriction, Examiner Geckil was assigned to a related application,

Examiner Geckil issued a restriction in the related application, Applicant's attorney and Examiner Geckil had discussed that restriction in the corresponding application, and Examiner Geckil told Applicant's attorney that he was retiring. Examiner Willett indicated that he would maintain the restriction requirement and that Group I would be examined. Applicant's attorney and Examiner Willett discussed Applicant's request to file system claims corresponding to the method claims of Group I. Examiner Willett instructed Applicant's attorney to wait to file the system claims until allowance.

A Cost Detail Report from the attorney's prior law firm, which is attached hereto as Exhibit A, identifies the telephone call made from the attorney's telephone number (extension 5848) to Examiner Willett's telephone number (571-272-3890) on June 24, 2005.

On June 30, 2005, Examiner Willett issued an Office action in which he acknowledged Applicant's election with traverse of Group I and found that Applicant's arguments with regard to the restriction were not persuasive. The Examiner did not identify the telephone conference with Applicant's attorney on June 24, 2005. Examiner Willett made other rejections to the claims.

On November 30, 2005, Applicant filed a response to the Office action. On page 18 of the Office action response, Applicant's attorney made the following statement under the Initial Remarks heading.

In a phone conference between the Examiner and Applicant's attorney prior to the issuance of this action but after the Response to Restriction Requirement was filed by Applicants, believed to be in June 2005, the Examiner identified Applicants' request on page 2 of the Response to Restriction Requirement. Applicants thank the Examiner for discussing that request.

In that phone conference, the Examiner advised Applicant's attorney to file system claims (which would correspond to the pending method claims that have not been withdrawn) in the present application upon allowance of the pending method claims, and those newly submitted system claims would be reviewed by the Examiner. The Examiner advised that those corresponding system claims could be filed in an amendment under 37 CFR 1.312.

Applicants believe that the claims are allowable as identified herein and request that they be able to file an amendment with the corresponding system claims prior to the issuance of the notice of allowance so that a 312 amendment is not required. If the Examiner agrees with Applicants, Applicants request a call to Applicants attorney directing that the corresponding system claims be filed prior to issuance of the notice of allowance.

On March 23, 2006, Examiner Willett issued a final Office action in which the claims were rejected based upon the non-statutory double patenting rejection for which a terminal

disclaimer could be filed. Examiner Willett did not identify the telephone conference between the Examiner and Applicant's attorney on June 24, 2005. Examiner Willett did not mention or respond to Applicant's attorney's initial remarks on page 18 of Applicant's response to the first Office action. There was no rejection over any prior art. Thus, the claims were allowable if a terminal disclaimer was filed.

On May 23, 2006, Applicant filed a response with a terminal disclaimer to obviate the provisional double patenting rejection. With the terminal disclaimer, Applicant also filed the system claims corresponding to the method claims that were examined and allowable. In the Remarks portion of the response, Applicant's attorney made the following statement.

Applicant's attorney previously spoke to the Examiner about Applicants submitting system claims that correspond to the pending method claims. The Examiner instructed Applicant's attorney to submit those claims in an amendment upon allowance of the pending claims. The rejections and objections to the pending claims have been overcome. Therefore, Applicants are including the corresponding system claims 110-131 in this Response. Applicants thank the Examiner for allowing this amendment. No fees are required for the amended claims.

Applicant further stated in the Remarks portion that "No conclusion or estoppel should be drawn as to whether or not the claims in the present application are or are not patentably distinct based on Applicants filing the Terminal Disclaimer. Applicants merely desire to have this application passed to issuance as quickly as possible."

On June 15, 2006, Examiner Willett called Applicant's attorney and asked when he and Applicant's attorney had the phone call in which Examiner Willett told Applicant's attorney to file the corresponding system claims upon allowance. Examiner Willett stated that he did not recall having a phone call with Applicant's attorney discussing the matter. Applicant's attorney responded that he and Examiner Willett discussed the issue by phone about a year ago, after Applicant's attorney filed the response to the restriction requirement. Applicant's attorney recounted that Examiner Willett had initially called Applicant's attorney because Applicant's attorney had requested to file the corresponding system claims in the initial remarks in the response to the restriction requirement filed approximately a year ago, prior to the issuance of the first Office action.

Examiner Willett asked Applicant's attorney if he wanted to file an RCE. Applicant's attorney responded that he did not want to file an RCE. The Examiner stated that "there are a lot of people with different thoughts" at the PTO. The Examiner asked Applicant's attorney if he knew what to do if he received an Office action. Applicant's attorney told the Examiner that he



did not know what he was talking about and he just did what the Examiner told him to do. The Examiner then stated, "Don't worry about it, we'll work it out."

On June 21, 2006, Examiner Willett called Applicant's attorney. Applicant's attorney returned the call to Examiner Willett and the two discussed the dates for the restriction requirement, the response to the restriction requirement, the telephone conference between Examiner Willett and Applicant's attorney in June of 2005, the next Office action, and the response to the same, filing the system claims.

On June 22, 2006, Examiner Willett called Applicant's attorney to discuss the system claims and an amendment for the same. Applicant's attorney and Examiner Willett discussed their views on Examiner Willett's instructions in June 2005 to file system claims upon allowance of the method claims and the claim amendments requested by Applicant's attorney to add the system claims. Examiner Willett identified issues he felt existed with the amended claims. Specifically, Examiner Willett identified an antecedent basis problem with Claim 110, which Applicant's attorney agreed to correct by changing the order in which the claim limitations were identified in the claim. Examiner Willett also requested that a change be made to Claim 1. Applicant's attorney stated that he did not feel a change needed to be made, but the requested change did not change the scope of the claim limitation, and, therefore, no estoppel would apply. Therefore, Applicant's attorney agreed to make the change. Examiner Willett requested other changes that Applicant's attorney did not agree to make, including a change to Claim 131. Applicant's attorney and Examiner Willett discussed the specific amendments that were to be made by Applicant's attorney. Applicant's attorney believed that he and Examiner Willett had come to an agreement about the specific language to be used for the modifications. Examiner Willett instructed Applicant's attorney to file the claims in an amendment under 37 CFR 1.312.

On June 22, 2006, after Applicant's attorney spoke with Examiner Willett, Applicant's attorney called SPE Caldwell to determine if the modified claims should be filed in an amendment by the Applicant under 1.312 or as an Examiner's amendment. Applicant's attorney had concerns about filing an amendment under 1.312. SPE Caldwell and Applicant's attorney discussed that the claims would be filed as an Examiner's amendment.

On June 22, 2006, Applicant's attorney transmitted a fax to Examiner Willett and SPE Caldwell with amended claims to be entered in an Examiner's amendment. On the cover sheet, Applicant's attorney stated, "Attached are eight pages of claim amendments from the agreement reached today in a telephone conference between Examiner Stephan Willett and Jim Stipek.

Please incorporate these claims in an Examiner's amendment. Please let me know if there is anything further. Thank you."

On June 23, 2006, Examiner Willett called Applicant's attorney and asked Applicant's attorney if he was sure he did not want to file a request for continued examination (although Examiner Willett actually used the term "CPA"). Applicant's attorney stated that he did not want to file an RCE. Examiner Willett also asked Applicant's attorney if he wanted to make more claim amendments. Applicant's attorney stated that he did not want to make any more claim amendments. Examiner Willett stated that he did not like the change to Claim 110. Applicant's attorney stated that he had read the change to Examiner Willett on June 22, 2006, and Examiner Willett had agreed to it. Examiner Willett stated that he did not understand that Applicant's attorney was going to change the order of the two limitations in Claim 110 to correct the antecedent basis problem. Applicant's attorney stated that he believed the two had discussed changing the order of the claim limitations in their phone conversation.

Examiner Willett requested that additional changes be made to the claims. Specifically, the Examiner requested that the claim limitations of Claim 110 be returned to their original order and that a different change be made. Applicant's attorney told Examiner Willett that Applicant's attorney would have to see the specific suggested amendment, and Applicant's attorney then would have to obtain authorization from the client for entering such an amendment. Examiner Willett requested that Applicant's attorney send an email to Examiner Willett with a Word document having the previously proposed amended claims. Examiner Willett then would make the change he suggested and transmit the suggested wording back to Applicant's attorney for review and approval.

On June 23, 2006, Applicant's attorney transmitted an email to Examiner Willett with a Word document containing the claims in the amended form that was transmitted to Examiner Willett by facsimile on June 22, 2006. In the email, Applicant's attorney stated, "Per your request, attached is the Word document corresponding to the amended claims I sent yesterday, to which I thought we had agreed. Thank you. Jim Stipek".

On June 23, 2006, Examiner Willett sent an email to Applicant's attorney with a proposed Examiner's Amendment in which Examiner Willett modified Claim 110 to place the claim limitations in their original order and modify a limitation to change the antecedent basis. Examiner Willett included a message in the email stating, "Please let me know if the below claims are okay." The Examiner also included a statement in the email stating "Authorization

for this Examiner's amendment was given in a telephonic interview with Mr. Stipek on June 23, 2006."

On June 23, 2006, Examiner Willett called Applicant's attorney to request authorization for the proposed Examiner's amendment. Applicant's attorney told Examiner Willett that Applicant's attorney must present the suggested amendment to the client and obtain authorization from the client for the amendment. Applicant's attorney told Examiner Willett that he specifically did not have authorization to enter the Examiner's amendment until Applicant's attorney obtained the required authorization from the client and communicated again with Examiner Willett. Applicant's attorney told Examiner Willett that he would not be able to do it that day.

On July 5, 2006, Applicant's attorney sent an email to Examiner Willett with approved claims for an Examiner's amendment. Applicant's attorney stated in the email "I made a small change for Claim 110 to add "wherein" prior to --the media switch-- and "is" after --the media switch-- in that clause. I also corrected the locations of the word "an" between the elements. The Word document also is attached. Thank you. Please let me know if that is acceptable." Applicant's attorney also modified the phrase providing authorization for the Examiner's amendment to include "and a confirmation on July 5, 2006" so that the authorization statement read as follows: "Authorization for this Examiner's amendment was given in a telephonic interview with Mr. Stipek on June 23, 2006, and a confirmation on July 5, 2006."

On July 7, 2006, the USPTO mailed a Notice of Allowance and Fee(s) Due and a Notice of Allowability. The Notice of Allowability included an Examiner-Initiated Interview Summary, which identified a telephonic interview on June 23, 2006. The Interview Summary specified that it is not necessary for the Applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. Attached to the Interview Summary was the facsimile transmitted by Applicant's attorney to Examiner Willett and SPE Caldwell on June 22, 2006. Also attached to the Interview Summary was a detailed action in which the Examiner included an Examiner's Amendment in which the Examiner stated "Authorization for this Examiner's Amendment was given in a telephonic interview with Mr. Stipek on June 23, 2006." The Examiner's Amendment included the amendment to Claim 110 transmitted to Applicant's attorney on June 23, 2006, for which Applicant's attorney specifically instructed the Examiner that the Examiner was not authorized to enter.

On July 10, 2006, the USPTO mailed an Examiner-Initiated Interview Summary based on a phone conference between Examiner Willett and applicant's attorney on June 22, 2006.

On July 17, 2006, Applicant's attorney again sent an email to Examiner Willett requesting the Examiner to identify whether or not the amendment transmitted via email to the Examiner on July 5, 2006, was acceptable. Applicant's attorney had not heard from Examiner Willett between June 23, 2006, and July 17, 2006.

On July 19, 2006, Applicant's attorney received in the mail the July 10, 2006, Examiner-Initiated Interview Summary, in which Examiner Willett identified, among other things, what he believed was discussed between Examiner Willett and Applicant's attorney on June 22, 2006. The Examiner-Initiated Interview Summary consisted of three pages, including a cover page, the first page of the Examiner-Initiated Interview Summary, and a continuation sheet.

The cover page and the first page of the Examiner-Initiated Interview Summary were identified with an incorrect application serial number. The application serial number identified on the cover sheet and the first page of the Examiner-Initiated Interview Summary was "10/051,405." Thus, the Examiner-Initiated Interview Summary was transmitted to the IBM Corporation for an application filed January 18, 2002, for inventor Michael John Branson. IBM Corporation mailed the Examiner-Initiated Interview Summary to Applicant's attorney.

Applicant's attorney noted that, on the continuation sheet of the Interview Summary, "White Out" had been placed over the last digit of the application serial number, and a number "5" had been handwritten over the White Out.

Examiner Willett made the following comments in the continuation sheet.

Continuation of substance of interviewing including description of the general nature of what was discussed: I called the representative to explain some concerns with his 5/23/06 amendment filed and as he indicated I said in my 11/30/05 amendment "new submitted system claims would be [and had been] reviewed". He agreed with some of my concerns, but not others. He directed me to page 18 of his amendment filed 11/30/2005. During our interview in early, 2005, I am sure I did not discuss the specifics of how he could file subsequent system claims, such as by 312 amendment, and I am even more sure I did not suggest an amendment after allowance. I note in the Applicant's interview summary he states "If the Examiner agrees with Applicants, Applicants request a call to Applicant's attorney". I did not make such a call to Applicant's attorney, but he filed corresponding systems claims anyway, thus this is his second written statement recognizing the need to file all claims as early as possible. Based on my best practices, I would have surely called the Applicant, as I did in early 2005 based on his request, to amicably resolve such a minor issue as this. I suggested he file an amendment as he warranted and that he could "say anything he wanted to in his interview summary" since I expected to file an interview summary also.

Subsequently, I called you on 6/23/06 and agreed to file an Examiner's amendment to amicably resolve this matter and try and make the claims the best possible.

Applicant's attorney contends that some of the statements made in the Examiner's Interview Summary are incorrect. In the phone call between Examiner Willett and Applicant's attorney on June 22, 2006, the Examiner did not make any of the following statements: "During our interview in early, 2005, I am sure I did not discuss the specifics of how he could file subsequent system claims, such as by 312 amendment, and I am even more sure I did not suggest an amendment after allowance. I note in the Applicant's interview summary he states 'If the Examiner agrees with Applicants, Applicants request a call to Applicant's attorney'. I did not make such a call to Applicant's attorney, but he filed corresponding systems claims anyway, thus this is his second written statement recognizing the need to file all claims as early as possible. Based on my best practices, I would have surely called the Applicant, as I did in early 2005 based on his request, to amicably resolve such a minor issue as this." Examiner Willett did not make any of these statements during the phone conference on June 22, 2006. These appear to be comments made by the Examiner after the fact and solely for the purposes of the Interview Summary.

Further, the above statements are factually incorrect. During the first telephone call from Examiner Willett to Applicant's attorney on June 15, 2006, Examiner Willett did not recall having a telephone conference in June of 2005 to discuss filing system claims in the present application. Applicant's attorney had to remind Examiner Willett that this application was initially examined by Examiner Geckil, Examiner Geckil had examined a corresponding application, Examiner Geckil restricted the claims in the corresponding application, Applicant's attorney and Examiner Geckil had discussed that restriction in the corresponding application, Examiner Geckil restricted the claims in the present application, Applicant's attorney responded to the restriction requirement in the present application, Examiner Geckil retired, Examiner Willett was then assigned to the application, and Examiner Willett called Applicant's attorney to discuss his request to add system claims.

Examiner Willett did not recall having a telephone conference in June of 2005 to discuss the restriction requirement or Applicant's request to file system claims. Examiner Willett certainly could not have recalled the context or content of that conversation, much less what he would or would not have suggested during that conversation.

Further, Examiner Willett took Applicant's attorney's remarks from the November 30, 2005, Office action response out of context. Examiner Willett stated that he noted in the Applicant's interview summary that Applicant's attorney stated "If the Examiner agrees with Applicants, Applicants request a call to Applicant's attorney." Examiner Willett then stated that he did not make such a call to Applicant's attorney, but Applicant's attorney filed corresponding system claims anyway. It is instructive to note the entire portion of the remarks made by Applicant's attorney in the November 30, 2005, Office action response. The following is a direct quote of the entire Initial Remarks portion on page 18 made by Applicant's attorney in the November 30, 2005, Office action response.

In a phone conference between the Examiner and Applicants' attorney prior to the issuance of this action but after the Response to Restriction Requirement was filed by Applicants, believed to be in June 2005, the Examiner identified Applicants' request on page 2 of the Response to Restriction Requirement. Applicants thank the Examiner for discussing that request.

In that phone conference, the Examiner advised Applicants' attorney to file system claims (which would correspond to the pending method claims that have not been withdrawn) in the present application upon allowance of the pending method claims, and those newly submitted system claims would be reviewed by the Examiner. The Examiner advised that those corresponding system claims could be filed in an amendment under 37 CFR 1.312.

Applicants believe that the claims are allowable as identified herein and request that they be able to file an amendment with the corresponding system claims prior to the issuance of the notice of allowance so that a 312 amendment is not required. If the Examiner agrees with Applicants, Applicants request a call to Applicants attorney directing that the corresponding system claims be filed prior to issuance of the notice of allowance.

On July 19, 2006, Applicant's attorney also reviewed the Notice of Allowance and the Notice of Allowability. Applicant's attorney noted that Examiner Willett entered an amendment without the authorization of Applicant's attorney, for claims Applicant's attorney specifically told Examiner Willett he did not have authorization to enter, and the Examiner's Amendment included a false statement that the Examiner had authorization to enter the Examiner's Amendment.

On July 20, 2006, Examiner Willett and Applicant's attorney spoke by telephone. Examiner Willett asked whether or not Applicant's attorney received the Interview Summary dated July 10, 2006. Applicant's attorney indicated that he had received the Interview Summary and that Examiner Willett's statements in the Interview Summary were false and created significant problems for the Applicant. Examiner Willett stated that he was "sorry" and that it had "to do with bureaucracy" at the Office.

Applicant's attorney told Examiner Willett that Examiner Willett made false statements in the Interview Summary, that Examiner Willett included some statements in the Interview Summary that were not discussed with Applicant's attorney during the phone call on June 22, 2006, that Examiner Willett included his "thoughts" about what he may or may not have discussed in the June 2005 phone conference and those "thoughts" were not discussed in the June 22, 2006, phone conference, and his statements created a significant problem for the Applicant. Examiner Willett stated that he did not believe he told Applicant's attorney in the June 2005 phone conference to file system claims upon allowance of the method claims. Applicant's attorney reminded Examiner Willett that he previously did not even recall having the phone conference in June 2005 and asked the Examiner how he possibly could conclude what he did or did not say when he did not even remember having the call.

Applicant's attorney told Examiner Willett that Examiner Willett's statements created a potential "fraud" situation, it appeared that Examiner Willett was accusing Applicant's attorney of lying on the record, and lying on the record would be considered a fraud on the USPTO, which would render any patent issuing from the application unenforceable. Applicant's attorney asked Examiner Willett why someone with over ten years of experience practicing before the USPTO would lie on the record knowing that it is a fraud, which would render the patent unenforceable. Examiner Willett stated that he had not thought about that issue. Applicant's attorney told Examiner Willett that Examiner Willett's Interview Summary was an attempt to cover himself from prior mistakes, and the Applicant was now left to deal with the problems that resulted from his Interview Summary. Applicant's attorney told Examiner Willett that if this patent ever went to litigation, it could possibly cost the Applicant hundreds of thousands in additional litigation costs to overcome and correct this problem. Examiner Willett then stated that he had not called to discuss the Interview Summary, but he had called to discuss Applicant's attorney's emails dated July 5 and July 17. Examiner Willett did not offer to correct the Interview Summary.

Examiner Willett and Applicant's attorney then discussed the Notice of Allowance. Applicant's attorney told Examiner Willett that he had never granted Examiner Willett authorization to enter the Examiner's Amendment because he had to obtain authorization for the amendment from his client (the Applicant). Applicant's attorney told Examiner Willett that he specifically told Examiner Willett in the June 23, 2006, telephone conference that Examiner Willett did not have authorization to enter any amendments until Applicant's attorney approved

them, and Applicant's attorney first had to obtain authorization from the client/Applicant. Applicant's attorney later made changes to the claims, which Applicant's attorney authorized the Examiner to enter (on July 5, 2006). Examiner Willett stated that he did not remember Applicant's attorney stating that he did not have authorization to enter the amendment, he was in a hurry the day of the phone conference because he was going out of town, and he did not believe he would have filed the amendment without authorization. Applicant's attorney stated that obviously the Examiner had entered the claims without authorization. Examiner Willett then offered to correct the problem. Examiner Willett asked Applicant's attorney if he wanted to file a 312 Amendment or if he would like Examiner Willett to file a Supplemental Examiner's Amendment. Applicant's attorney indicated that he would prefer Examiner Willett to file a Supplemental Examiner's Amendment. Examiner Willett stated that he would do that and requested Applicant's attorney to send him an email with the claims.

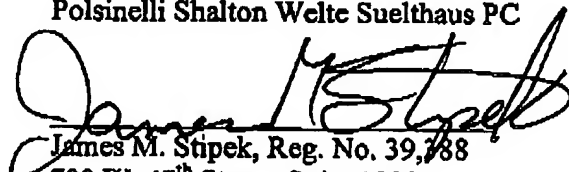
Applicant's attorney did not send the email with the claims to Examiner Willett. Instead, Applicant's attorney called SPE Caldwell to discuss the problem.

On July 27, 2006, Applicant's attorney requested SPE Caldwell to remove Examiner Willett as the Examiner assigned to the application and to reassign a new Examiner to the application. Applicant's attorney also agreed to withdraw the application from issuance since the allowance was not based on an authorized action.

This is intended to be a complete response to the Examiner-Initiated Interview Summary mailed July 10, 2006.

Respectfully submitted,

Polsinelli Shalton Welte Suelthaus PC

  
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0986-Stipek Jim -  
0390056 Streamworks Techn Media Routing Al 0986 062405  
1.44 1.44 1.44  
Long Distance Charges from 5848 to -  
1-571-272-3890 (KANSASCITY, MO)  
TOTAL FOR : 0390056  
1.44 1.44 1.44  
TOTAL FOR : 0986-Stipek Jim  
1.44 1.44 1.44

**EXHIBIT A****BEST AVAILABLE COPY**